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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

WALTER SPURLOCK and ANDRE
GUIBERT,

Plaintiffs,

v.

CITY AND COUNTY OF SAN
FRANCISCO, AIRPORT COMMISSION OF
THE CITY AND COUNTY OF SAN
FRANCISCO, KEABOKA MOLWANE in his
individual capacity and official capacity as
Aviation Security and Regulatory Compliance
Officer at the San Francisco International
Airport, and JEFF LITTLEFIELD in his
individual capacity and official capacity as
Chief Operating Officer at San Francisco
International Airport,

Defendants.

Case No. 3:23-cv-4429

**DEFENDANTS' ADMINISTRATIVE MOTION
TO FILE UNDER SEAL DOCUMENT
SUBMITTED IN SUPPORT OF
DEFENDANTS' MOTION TO DISMISS FIRST
AMENDED COMPLAINT**

Hearing Date: March 14, 2024
Time: 2:00 p.m.
Before: Hon. Araceli Martínez-Olguín
Place: 450 Golden Gate Avenue
Courtroom 10
San Francisco, CA 94102

Date Action Filed: August 28, 2023

ADMINISTRATIVE MOTION TO SEAL DOCUMENT

Pursuant to Civil Local Rules 79-5 and 7-11, Defendants City and County of San Francisco, the Airport Commission of the City and County of San Francisco, Jeff Littlefield, and Keaboka Molwane (collectively, “San Francisco”) move to file under seal the entirety of the following document submitted herewith in support of Defendants’ Motion to Dismiss the First Amended Complaint: “TSA National Amendment: Centralized Revocation Database for Individual with Revoked Identification Media TSA-NA-21-01A” (the “TSA Guidance”), as incorporated by reference in Plaintiffs’ First Amended Complaint (“FAC”). FAC at ¶ 53; *Coto Settlement v. Eisenberg*, 593 F.3d 1031, 1038 (9th Cir. 2010). The TSA Guidance is **Exhibit B** to the Declaration of Molly J. Alarcon ISO Request for Judicial Notice ISO Motion to Dismiss, dated December 18, 2023.

To avoid improper disclosure of sensitive information, San Francisco will file the above-referenced document conditionally under seal pending the Court’s ruling on this administrative motion. Defendants intend for the Court to review the document in camera.¹

Local Rule 79-5 authorizes a document to be filed under seal when it is established that the document is privileged or otherwise entitled to protection under the law. In the Ninth Circuit, “documents attached to dispositive motions must meet the high threshold of showing that ‘compelling reasons’ support secrecy.” *Kamakana v. City & Cnty. of Honolulu*, 447 F.3d 1172, 1179-1180 (9th Cir. 2006). Here, this standard is met by binding federal regulations preventing the public disclosure of this document because it is “sensitive security information” (“SSI”). 49 C.F.R. § 1520.5(a), (b)(1), and (b)(2); *see also* 49 C.F.R. § 1520.15(a).

Local Rule 79-5 requires a party seeking to file material under seal to explain: (i) the legitimate private or public interests that warrant sealing; (ii) the injury that will result if sealing is denied; and (iii) why a less restrictive alternative to sealing is not sufficient. The first factor is satisfied because the federal government has determined that public disclosure of this document would constitute an unwarranted

¹ It appears that Plaintiffs have a copy, as they reference it in their FAC. However, Defendants intend to provide Plaintiffs with a copy once the parties have executed a protective order. Defendants understand that federal regulations deem a person to “need to know” SSI when the information is needed to assist in the person’s representation in a judicial proceeding regarding transportation security requirements. *See* 49 C.F.R. § 1520.11(a)(5).

1 invasion of privacy, reveal trade secrets or privileged or confidential information obtained from any
 2 person, or be detrimental to the security of transportation. 49 C.F.R. § 1520.5(a). Hence, there are
 3 legitimate public interests that warrant sealing, as codified by 49 C.F.R. § 1520.5. On the second factor,
 4 multiple injuries would result if sealing is denied. Such action would be detrimental to the security of
 5 transportation, would reveal trade secrets or other privileged or confidential information, or would
 6 constitute unwarranted invasion of privacy. Additionally, San Francisco could potentially be subject to
 7 penalties for the unauthorized disclosure of SSI. *See* 49 C.F.R. § 1520.17; Declaration of Molly J. Alarcon
 8 ISO Administrative Motion to Seal at ¶ 4. As to the third factor, because the entire document is SSI, there
 9 is no way to redact the SSI or selectively disclose non-SSI material, and hence, there are no less restrictive
 10 alternatives to sealing if the Court decides that reviewing this document would assist in evaluating San
 11 Francisco's Motion to Dismiss. *See* Declaration of Molly J. Alarcon ISO Administrative Motion to Seal at
 12 ¶ 5.

13 For the reasons stated herein, San Francisco respectfully requests that Exhibit B to the Declaration
 14 of Molly J. Alarcon ISO Request for Judicial Notice ISO Motion to Dismiss be sealed.

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 16 Dated: December 18, 2023

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 22 By: /s/ Molly J. Alarcon
 MOLLY J. ALARCON

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 24 Attorneys for Defendants